

**ASSEMBLY BILL**

**No. 411**

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**Introduced by Assembly Member Garrick**

February 23, 2009

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An act to amend Section 130061.5 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 411, as introduced, Garrick. Health facilities: seismic safety.

Existing law, the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, establishes, under the jurisdiction of the Office of Statewide Health Planning and Development, a program of seismic safety building standards for certain hospitals constructed on and after March 7, 1973. Existing law authorizes the office to assess an application fee for the review of facilities' design and construction, and requires that full and complete plans be submitted to the office for review and approval.

Existing law requires that, after January 1, 2008, any general acute care hospital building that is determined to be a potential risk of collapse or pose significant loss of life be used only for nonacute care hospital purposes, except that the office may grant an extension under prescribed circumstances. Existing law allows certain hospital owners who do not have the financial capacity to bring certain buildings into compliance by 2013 to, instead, replace those buildings by January 1, 2020.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 130061.5 of the Health and Safety Code  
 2 is amended to read:  
 3 130061.5. (a) The Legislature finds and declares the following:  
 4 (1) By enacting this section, the Legislature reinforces its  
 5 commitment to ensuring the seismic safety of hospitals in  
 6 California. In order to meet that commitment, this section provides  
 7 a mechanism for hospitals that lack the financial capacity to retrofit  
 8 Structural Performance Category-1 (SPC-1) buildings by 2013 to,  
 9 instead, redirect available capital and borrowing capacity to replace  
 10 those building by 2020. The mechanism is intended to allow these  
 11 hospitals to meet the seismic requirements, and provide state  
 12 agencies and the public with more timely and detailed information  
 13 about the progress these hospitals are making toward seismic safety  
 14 compliance.  
 15 (2) This section requires hospitals seeking this assistance to  
 16 demonstrate that their financial condition does not allow them to  
 17 retrofit these buildings by 2013, and requires them to meet  
 18 specified benchmarks in order to be eligible for the extended  
 19 timelines set forth in this section. Failure to meet any of these  
 20 benchmarks shall result in the hospital being noncompliant and  
 21 subject the hospital to loss of licensure.  
 22 (3) It is the intent of the Legislature to ensure the continuation  
 23 of services in medically underserved communities in which the  
 24 closure of the hospital would have significant negative impacts on  
 25 access to health care services in the community.  
 26 (4) It is also the intent of the Legislature that this section be  
 27 implemented very narrowly to target only facilities that are  
 28 essential providers in underserved communities and that lack the  
 29 financial capacity to retrofit SPC-1 buildings by 2013.  
 30 (b) A hospital owner may meet the requirements of subdivision  
 31 (a) of Section 130060 by replacing all of its buildings subject to  
 32 that subdivision by January 1, 2020, if ~~it~~ *the hospital owner* meets  
 33 all of the following conditions:  
 34 (1) The hospital owner has requested an extension of the  
 35 deadline described in subdivision (a) or (b) of Section 130060.  
 36 (2) (A) The office certifies that the hospital owner lacks the  
 37 financial capacity to meet the requirements of subdivision (a) of  
 38 Section 130060 for that building. In order to receive the

1 certification, the hospital owner shall file with the office by January  
2 1, 2009, financial information as required by the office. This  
3 information shall include a schedule demonstrating that, as of the  
4 end of the hospital owner's most recent fiscal year for which the  
5 hospital owner has filed its annual financial data with the office  
6 by July 1, 2007, the hospital owner's annual financial data for that  
7 fiscal year show that the hospital owner meets all of the following  
8 financial conditions:

9 (i) The owner's net long-term debt to capitalization ratio, as  
10 measured by the ratio of net long-term debt to net long-term debt  
11 plus equity, was above 60 percent.

12 (ii) The owner's debt service coverage, as measured by the ratio  
13 of net income plus depreciation expense plus interest expense to  
14 current maturities on long-term debt plus interest expense, was  
15 below 4.5.

16 (iii) The owner's cash-to-debt ratio, as measured by the ratio  
17 of cash plus marketable securities plus limited use cash plus limited  
18 use investments to current maturities on long-term debt plus net  
19 long-term debt, was below 90 percent.

20 (B) The office shall certify that a hospital owner applying for  
21 relief under this subdivision meets each of these financial  
22 conditions. For the purposes of this subdivision, a hospital owner  
23 shall be eligible for certification only if the annual financial data  
24 required by this paragraph for the hospital owners and all of its  
25 hospital affiliates, considered in total, meets all of these financial  
26 conditions. For purposes of this section, "hospital affiliate" means  
27 any hospital owned by an entity that controls, is controlled by, or  
28 is under the common control of, directly or through *an* intermediate  
29 entity, the entity that owns the specified hospital. The applicant  
30 hospital owner shall bear all costs for review, but not to exceed  
31 the costs of review, of its financial information.

32 (3) The hospital owner files with the office, by January 1, 2009,  
33 a declaration that the hospital for which the hospital owner is  
34 seeking relief under this subdivision shall satisfy all of the  
35 following conditions:

36 (A) The hospital shall maintain a contract with the California  
37 Medical Assistance Commission (CMAC) under the selective  
38 provider contracting program, unless in an open area as established  
39 by CMAC.

- 1 (B) The hospital shall maintain at least basic emergency medical  
2 services if the hospital provided emergency medical services at  
3 the basic or higher level as of July 1, 2007.
- 4 (C) The hospital meets any of the following criteria:
  - 5 (i) The hospital is located within a Medically Underserved Area  
6 or a Health Professions Shortage Area designated by the federal  
7 government pursuant to Sections 330 and 332 of the federal Public  
8 Health Service Act (42 U.S.C. Secs. 254b and 254e).
  - 9 (ii) The office determines, by means of a health impact  
10 assessment, that removal of the building or buildings from service  
11 may diminish significantly the availability or accessibility of health  
12 care services to an underserved community.
  - 13 (iii) The CMAC determines that the hospital is essential to  
14 providing and maintaining Medi-Cal services in the hospital's  
15 service area.
  - 16 (iv) The hospital demonstrates that, based on annual utilization  
17 data submitted to the office for 2006 or later, the hospital had, in  
18 one year, over 30 percent of all discharges for either Medi-Cal or  
19 indigent patients in the county in which the hospital is located.
- 20 (4) The hospital owner submits, by January 1, 2010, a facility  
21 master plan for all the buildings that are subject to subdivision (a)  
22 of Section 130060 that the hospital intends to replace by January  
23 1, 2020. The facility master plan shall identify at least all of the  
24 following:
  - 25 (A) Each building that is subject to subdivision (a) of Section  
26 130060.
  - 27 (B) The plan to replace each building with buildings that would  
28 be in compliance with subdivision (a) of Section 130065.
  - 29 (C) The building or buildings to be removed from acute care  
30 service and the projected date or dates of that action.
  - 31 (D) The location for any new building or buildings, including,  
32 but not limited to, whether the owner has received a permit for  
33 that location. The replacement buildings shall be planned within  
34 the same service area as the buildings to be removed from service.
  - 35 (E) A copy of the preliminary design for the new building or  
36 buildings.
  - 37 (F) The number of beds available for acute care use in each new  
38 building.
  - 39 (G) The timeline for completed plan submission.
  - 40 (H) The proposed construction timeline.

- 1 (I) The proposed cost at the time of submission.
- 2 (J) A copy of any records indicating the hospital governing
- 3 board's approval of the facility plan.
- 4 (5) By January 1, 2013, the hospital owner submits to the office
- 5 a building plan that is deemed ready for review by the office, for
- 6 each building.
- 7 (6) By January 1, 2015, the hospital owner receives a building
- 8 permit to begin construction; for each building that the owner
- 9 intends to replace pursuant to the master plan.
- 10 (7) Within six months of receipt of the building permit, the
- 11 hospital owner submits a construction timeline that identifies at
- 12 least all of the following:
  - 13 (A) Each building that is subject to subdivision (a) of Section
  - 14 130060.
  - 15 (B) The project number or numbers for replacement of each
  - 16 building.
  - 17 (C) The projected construction start date or dates and projected
  - 18 construction completion date or dates.
  - 19 (D) The building or buildings to be removed from acute care.
  - 20 (E) The estimated cost of construction.
  - 21 (F) The name of the contractor.
- 22 (8) Every six months thereafter, the hospital owner reports to
- 23 the office on the status of the project, including any delays or
- 24 circumstances that could materially affect the estimated completion
- 25 date.
- 26 (9) The hospital owner pays ~~to the office~~ an additional fee *to*
- 27 *the office*, to be determined by the office, sufficient to cover the
- 28 additional cost incurred by the office for maintaining all reporting
- 29 requirements established under this section, including, but not
- 30 limited to, the costs of reviewing and verifying the financial
- 31 information submitted pursuant to paragraph (2). This additional
- 32 fee shall not include any cost for review of the plans or other duties
- 33 related to receiving a building or occupancy permit.
- 34 (c) The office may also approve an extension of the deadline
- 35 described in subdivision (a) or (b) of Section 130060 for a general
- 36 acute care hospital building that is classified as a nonconforming
- 37 SPC-1 building and is owned or operated by a county, city, or
- 38 county and city that has requested an extension of this deadline
- 39 by June 30, 2009, if the owner files a declaration with the office
- 40 stating that, as of the date of that filing, the owner lacks the ability

1 to meet the requirements of subdivision (a) of Section 130060 for  
2 that building pursuant to subdivision (b) of that section. The  
3 declaration shall state the commitment of the hospital to replace  
4 those buildings by January 1, 2020, with other buildings that meet  
5 the requirements of Section 130065 and shall meet the requirements  
6 of paragraphs (4) to (9), inclusive, of subdivision (b).  
7 (d) A hospital filing a declaration pursuant to this section but  
8 failing to meet any of the deadlines set forth in this section shall  
9 be deemed in violation of this section and Section 130060, and  
10 shall be subject to loss of licensure.